

Attorney Docket No.: DEX-0150
Inventors: Sun et al.
Serial No.: 09/762,021
Filing Date: August 6, 2001
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REMARKS

Claim 1 is pending in the instant application. The rejection of claim 1 as being anticipated under 35 U.S.C. § 102(a) and (e) has been maintained as the Examiner suggests that Applicants have not provided objective evidence demonstrating differences between the protein encoded by SEQ ID NO:1 of the present invention and the proteins of U.S. Patent 5,733,738.

Applicants respectfully traverse this rejection.

It is respectfully pointed out that the Examiner has provided no evidence supporting the suggestion that U.S. Patent 5,733,738 teaches a protein encoded by SEQ ID NO:1 of the present invention. Thus, the Examiner has failed to establish that each and every element as set forth in the claim is found, either expressly or inherently described in the cited prior art patent as required by MPEP § 2131 to anticipate a claim.

In an earnest effort to advance the prosecution of this case, however, Applicants are submitting herewith sequence alignments performed using the BLASTX program. Each alignment consists of SEQ ID NO:1 translated in all frames compared to the proteins taught in U.S. Patent 5,733,738. BLASTX is a publicly available program from NCBI which compares a nucleotide query sequence translated in all reading frames against a protein

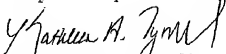
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sequence database. The program was run using all default parameters. Using this program Applicants have demonstrated that any proteins encoded in any frame of SEQ ID NO:1 have no significant similarity with any of the proteins of Figures 1, 2, 4, 5, 6, 8, 9, 10 or 11 disclosed in U.S. Patent 5,733,748.

Withdrawal of this rejection under 35 U.S.C. § 102(a) and (e) is respectfully requested in light of the objective evidence provided herewith clearly demonstrating that U.S. Patent 5,733,748 does not teach all the elements of the claimed invention.

Applicants believe that the foregoing comprises a full and complete response to the Office Communication of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,


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